

EXHIBIT 3



NY LEGIS 608 (1993)

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(Publication page references are not available for this document.)

**McKINNEY'S 1993 SESSION LAW NEWS OF NEW YORK
216th Legislature**

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Additions are indicated by <<+ Text +>>; Deletions by <<- Text ->>
Changes in tables are made but not highlighted.

CHAPTER 608

A. 8517-B

NEW YORK STATE CLEAN AIR COMPLIANCE ACT

Approved Aug. 4, 1993, effective as provided in section 41

AN ACT to amend the agriculture and markets law, the environmental conservation law, the economic development law, the executive law, the state finance law, the transportation law and the vehicle and traffic law, in relation to state clean air compliance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

<< Note: NY ENVIR CONSER § 19-0311 >>

§ 1. This act shall be known and may be cited as the "New York state clean air compliance act."

§ 2. Section 179 of the agriculture and markets law is amended by adding a new subdivision 20 to read as follows:

<< NY AGRI & MKTS § 179 >>

<<+20. Pursuant to delegation from the commissioner of environmental conservation under paragraph f of subdivision one of section 19-0301 of the environmental conservation law, and notwithstanding any other provision of this chapter, exercise the authority of the department of environmental conservation to test fuels for conformance with applicable standards and to enforce against violations of such standards.+>>

§ 3. Section 181 of the agriculture and markets law is amended by adding a new subdivision 9 to read as follows:

<< NY AGRI & MKTS § 181 >>

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§ 5. Subdivision 1 of section 19-0301 of the environmental conservation law is amended by adding two new paragraphs e and f to read as follows:

<< NY ENVIR CONSER § 19-0301 >>

<<+e. Except as otherwise required by the Act [FN1] or regulations promulgated pursuant thereto by the administrator, formulate, adopt, and promulgate, amend and repeal codes, rules and regulations establishing an operating permit program in accordance with section 19-0311 of this title.+>>

<<+f. Delegate to the department of agriculture and markets the authority to test fuels for conformance with applicable standards and to enforce against violations of such standards.+>>

[FN1] Federal Clean Air Act, 42 U.S.C.A. § 7401 et seq.

§ 6. Section 19-0301 of the environmental conservation law is amended by adding three new subdivisions 3, 4 and 5 to read as follows:

<< NY ENVIR CONSER § 19-0301 >>

<<+3. The department is prohibited from adopting any rule, regulation or standard which would require the use or sale of any type of reformulated gasoline other than the federal reformulated gasoline that is certified by the administrator pursuant to section 7545(k) of the Act [FN1] for sale and use in states other than California; provided, however, that nothing in this subdivision shall be deemed to limit the authority of the department to adopt a rule, regulation or standard for:+>>

<<+(a) fuel oxygen content or fuel volatility; or+>>

<<+(b) the composition of fuels necessary to implement section 7586 of the Act; or+>>

<<+(c) the composition of fuels necessary to implement section 7507 of the Act if such fuel standard is adopted and implemented regionally pursuant to agreement with any three states sharing a boundary with New York; or+>>

<<+(d) the composition of fuels if the commissioner finds that no other measures would bring about timely attainment or maintenance of a national primary or secondary ambient air quality standard for which New York state must file a state implementation plan pursuant to the Act, or that other existing and technically possible measures are unreasonably costly or impracticable and the commissioner has included such measure in the implementation plan pursuant to section 7410 of the Act.+>>

<<+4. Any final order or determination or other final action by the commissioner

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and the validity or reasonableness of any code, rule or regulation promulgated by the department pursuant to this article shall be subject to review as provided in article seventy-eight of the civil practice law and rules; [FN2] provided however, the department may establish by regulation a ninety day statute of limitations for review of final permit actions by the commissioner pursuant to section 19-0311 of this title, if required to maintain compliance with the Act.+>>

<<+5. The department shall certify emission reduction credits and establish an emission reduction credit registry. Such registry shall identify emission reduction credits, that are certified by, or used in, New York state. Prior to certifying credits, the department shall publish notice and provide the opportunity for public comment, pursuant to article seventy of this chapter, [FN3] on the proposed modification of a source's permit to reflect that emission reductions will be certified as emission reduction credits. The department shall provide information regarding the availability of such certified emission reduction credits to any person upon request. The department shall, to the extent consistent with any rules or guidance related to emission offset requirements published by the administrator, adopt rules and regulations to provide for the use of mobile source emission reduction credits as a means of satisfying emission offset requirements pursuant to section 7503(c) of the Act. Such rules and regulations shall include provision for cooperating with the commissioner of motor vehicles pursuant to paragraph one of subdivision (d) of section 301 of the vehicle and traffic law.+>>

[FN1] Federal Clean Air Act, 42 U.S.C.A. § 7401 et seq.

[FN2] CPLR § 7801 et seq.

[FN3] Envir. Conser. Law § 70-0101 et seq.

§ 7. Section 19-0302 of the environmental conservation law, as added by chapter 233 of the laws of 1979, is amended to read as follows:

<< NY ENVIR CONSER § 19-0302 >>

§ 19-0302. Permits and certificates

<<+1.+>> The rules and regulations adopted by the department to implement this article and the provisions of article 70 of this chapter [FN1] and rules and regulations adopted thereunder <<+and the provisions of the state administrative procedure act+>> shall govern permit and certificate applications, renewals, modifications, suspensions and revocations under this article <<+unless otherwise provided for in this article+>>.

<<+2. No permit issued pursuant to this article shall include performance, emission or control standards more stringent than any established by the Act [FN2] or by the United States environmental protection agency unless such standards are authorized by rules or regulations.+>>